

1 Q Okay. There's an entry above that
2 that says "Work Product." What does that
3 mean? What do you have that there for?

4 A Again, what I recall is that this
5 stemmed along with the fact that we were a
6 little fearful of some litigation and my
7 negotiating attorney suggested I put that on
8 the top here.

9 JUDGE: I'm sorry. What was it?
10 Oh, work product. Work product?

11 MR. CARROLL: Right.

12 THE WITNESS: Yes.

13 JUDGE: Were you taking the notes
14 for him or for you?

15 THE WITNESS: I'm sorry.

16 JUDGE: Were you taking the notes
17 -- was it a him or a her -- the counsel?

18 THE WITNESS: It was a man. His
19 name was Lee.

20 JUDGE: Were you taking the notes
21 for him or for yourself?

22 THE WITNESS: I took the notes for

1 myself.

2 BY MR. CARROLL:

3 Q And then if we go down, let's just
4 take each area. You've got the south first.
5 First of all, why is the south first?

6 A No reason.

7 Q Okay. And the south again was,
8 who is the --

9 A Jen Goldman.

10 Q Jen Goldman. And can you just
11 read for us what you've written down for Ms.
12 Goldman?

13 A "Generally no interest in melting
14 except perhaps in a few markets. Charleston,
15 Atlanta, Jacksonville."

16 Q Okay. And "melting," we had some
17 discussion of that last week. Can you just
18 quickly tell us what does melting mean?

19 A Melting means moving a service
20 from a lesser penetrated level of service to
21 a more widely penetrated level of service.

22 Q And is that what was being

1 requested under the proposal for Mr. Solomon?

2 A That's right.

3 Q Okay. And so this is the comment
4 that you received from Ms. Goldman during the
5 meeting. Is that correct?

6 A That's right.

7 Q Okay. And how about then from the
8 east? Can you tell us? Let's take each of
9 those entries in turn. What does the first
10 entry next to the east say?

11 A "City said Tennis' pitch is that
12 their customers are affluent. So it doesn't
13 make sense to melt because they can pay for
14 SEPs" (sports entertainment pack).

15 Q And what did that mean to you when
16 you heard that comment?

17 A I believe that the east's point
18 here was we have Tennis Channel. We have it
19 on the sports tier and Tennis Channel's big
20 pitch to us many times over was that they are
21 the more affluent customer. The sports tier
22 is between \$5 and \$8. It's not extremely

1 expensive. And so affluent customers haven't
2 ever complained about having to pay the extra
3 fee.

4 Q Did you understand this to be a
5 comment in favor of melting or not in favor of
6 melting?

7 A Not in favor of melting.

8 Q Okay. And then what's the next
9 entry you've written for the east?

10 A "So he said to me, 'Strong product
11 to keep on SEP while going through changes
12 with league channels right now.'"

13 Q What does SEP stand for?

14 A Sports entertainment pack.

15 Q Okay. And what did that comment
16 mean to you?

17 A The east was always a huge
18 proponent of the sports tier. They really
19 liked the idea of having a sports product that
20 could have the sports fees there that sports
21 fans would be willing to pay for.

22 At the time we were preparing to

1 melt down some of the league channels. And I
2 believe what they're saying here was Tennis is
3 the perfect product for sports entertainment
4 pack and we want to keep it up there
5 especially during this time.

6 Q Okay. And let's go to the west
7 quickly.

8 A "Cost is a big issue. They are
9 being told to keep all costs flat or need to
10 understand new subs it could bring on." And
11 then I put in parenthesis, "(Bls)."

12 Q Okay. What's Bls?

13 A New subscribers. Broadcast basic
14 subscribers. So they're talking about sub
15 acquisition here.

16 Q And who is -- Can you tell us as
17 between the two Ms. Wember and Mr. --

18 A Mr. Kreiling.

19 Q Mr. Kreiling, do you know which
20 one of them made this comment that you have
21 here?

22 A I believe this was Jay. Mr.

1 Kreiling.

2 Q Mr. Kreiling. And what did you
3 understand the point he was making?

4 A Finance had begun saying to the
5 field year over year fees need to be flat.
6 Expenses need to be flat. And unless you can
7 prove to us that you can either acquire new
8 customers or upgrade existing customers into
9 a higher revenue package then we can't add the
10 cost.

11 Q And what was Mr. Kreiling telling
12 you? How did that factor into his bottom
13 line? Was there a bottom line point that was
14 being made here?

15 A I think the bottom line was he
16 didn't think the additional cost could be
17 compensated by bringing on new customers.

18 Q Okay.

19 A That was a concern for him.

20 Q Let's go to your next page and it
21 would be the north quickly.

22 JUDGE: Can I ask? What is this?

1 You explained it, but I think I missed it.

2 New subscribers, what is the abbreviation for
3 new subscribers?

4 THE WITNESS: B1s. So B1 is short
5 for broadcast basic which is our entry level
6 customer.

7 JUDGE: Right. Okay. Thank you.

8 BY MR. CARROLL:

9 Q And second page, let's do the
10 north quickly. The north again is?

11 A Trevor Arp.

12 Q Mr. Arp.

13 A He clearly said there was no
14 interest whatsoever.

15 Q Let's read his words first if you
16 wouldn't mind please, the words that you've
17 written down.

18 A It says, "No interest whatsoever."
19 He was concerned with price and he was
20 concerned with what I wrote here was
21 "strategic/no customer requests. They do not
22 have a track -- They do have a tracking device

1 for when subscribers call in. It is tallied
2 quarterly. Never seen a request or a
3 complaint to move Tennis Channel to a more
4 available tier."

5 Q Okay. And what does that -- What
6 did that mean to you when that comment was
7 made?

8 A He got straight to the point that
9 if we can't bring on new customers or move
10 customers up into more revenue-generating
11 packages then we wouldn't make the move or
12 launch the channel.

13 Q Okay. Now then you've got an
14 entry with an arrow in front of it underneath
15 that. First before you read that entry, what
16 are these entries that follow? There are two
17 of them with arrows and then a last one. Are
18 these under the north or are they something
19 else?

20 A No, they're just general
21 conversation.

22 Q Okay.

1 A Once the north hit on the idea of
2 having this customer tally system, customer
3 feedback system, I then said to the other
4 three divisions, "Do you guys have a way of
5 tracking customer responses as well?"

6 Q Okay. And what answer did you get
7 back? What have you written here?

8 A I wrote a general note here.
9 "Everyone says that the systems have different
10 ways to track customer interest."

11 Q Okay. And why was that -- Why
12 were you asking that question and what was the
13 significance of that information for you?

14 A I think it all comes down to why
15 would we take on this additional expense if we
16 weren't going to have customer interest for
17 the channel.

18 Q Okay.

19 A And if there wasn't any interest
20 we do distribute the channel virtually
21 everywhere. So customers were able to get it.
22 And if customers weren't complaining and they

1 were just buying into the tier then I'm not
2 sure how it made any business sense to melt it
3 down.

4 Q Okay. The next entry, tell us
5 what that says first of all, your handwriting.

6 A It says, "Years ago we moved
7 Tennis from D1 to SEP after the Time Warner
8 Cable purchase." TWC is Time Warner Cable.
9 "And didn't receive one complaint.

10 Q Okay. What's that a reference to?

11 A This is talking about Houston. So
12 we purchased the Houston system from Time
13 Warner and they had -- Excuse me. They had
14 purchased it from Adelphia. So Adelphia had
15 launched Tennis Channel on digital classic.
16 We moved it to sports tier. And according to
17 the system personnel we didn't have any
18 complaints.

19 Q When did that happen? Do you
20 remember? About a year?

21 A It was either in '07 or '08.

22 Q Okay. And which region was

1 reporting this information to you about the
2 Houston move?

3 A At the time, the southern division
4 was in charge of Houston.

5 Q Okay. Is there a term of art you
6 use to describe a move like that from the one
7 to the sports tier?

8 A We call that a negative repo,
9 negative reposition.

10 Q Okay. And were you being told in
11 this call then that Tennis Channel had been
12 negatively repositioned by Comcast? Is that
13 right?

14 A That's right.

15 Q And that you hadn't received one
16 complaint. Complaint from whom?

17 A Customers.

18 Q From customers. And how was that
19 relevant to you in terms of the information
20 you're collecting here?

21 A Well, the information we're
22 collecting here is is the field interested.

1 And the field would only be interested if the
2 customers were interested.

3 Q Okay. And then the last entry you
4 have on the paper, what does that say?

5 A It says, "Get back to us in a day
6 or two if any interest stirred up because of
7 proposal."

8 Q Okay. What does that mean?

9 A I believe here I was telling the
10 field if there's any other interest stirred
11 up. Talk to your folks. Kinda let us know.

12 Q Okay. Did you -- Was there any
13 follow-up on that last entry?

14 A I don't recall that anybody
15 followed up with me. I do recall several days
16 later I followed back up with the southern
17 division with regard to Charleston.

18 Q With regard to Charleston?

19 A Yes.

20 Q And what was the result of that
21 follow-up?

22 A Charleston would not agree to melt

1 down the service.

2 Q And did they give you a reason?

3 A I think it's very much all the
4 same which is there's no consumer demand over
5 and above what we're already offering the
6 service at with sports tier.

7 Q After you had this call that
8 you've just taken us through the notes of,
9 what did you do with the information that you
10 gathered?

11 A I shared this with Matt Bond.

12 Q Okay. And shared it how? How did
13 you share it with Mr. Bond?

14 A I don't recall.

15 Q Do you know whether you gave him
16 the notes or did you meet with him and speak
17 with him?

18 A Most likely I met with him. I
19 wouldn't have given him my notes.

20 Q Okay. And do you remember what
21 you told Mr. Bond in essence? Even if you
22 don't remember the particulars, do you

1 remember what message you delivered to Mr.
2 Bond?

3 A Yes. In essence I delivered to
4 him that there was no significant field
5 interest.

6 Q Okay. What happened with respect
7 to the proposal after the two tasks you
8 described, after your economic analysis and
9 after your call with the division heads?

10 A We had a call with Ken Solomon and
11 his team again a couple days later.

12 Q And in that call did Mr. Bond
13 respond to the proposal?

14 A Yes, he did. We went over the
15 economics with Ken to make sure that we were
16 looking at things the same way. We do that
17 every often to make sure we're all on the same
18 page. I believe Ken gave us some additional
19 ratings information.

20 Q Mr. Solomon?

21 A I'm sorry. Mr. Solomon. And then
22 Mr. Bond shared with him that there was no

1 field interest in us bringing the channel
2 down.

3 Q So Mr. Bond reported through the
4 information from both of your tasks.

5 A Yes.

6 JUDGE: Can I get a clarifying
7 question in here?

8 MR. CARROLL: Yes, Your Honor.

9 JUDGE: These different offices
10 that you went to, north south east and west,
11 were they systems offices or division offices?

12 THE WITNESS: Division offices.

13 JUDGE: They are division offices.
14 And what city is the one in the south located?

15 THE WITNESS: Atlanta.

16 JUDGE: Okay. And the one in the
17 east?

18 THE WITNESS: It's outside of
19 Philadelphia.

20 JUDGE: Okay. And that's
21 Philadelphia division. Okay. And then west?

22 THE WITNESS: Denver.

1 JUDGE: Denver division. And
2 north?

3 THE WITNESS: Boston.

4 JUDGE: Boston division. All
5 right. If you know this, does Mr. Solomon
6 know these same people that you're talking --
7 I mean not in the same way you do obviously
8 but in the general course of business, is he
9 familiar with these individuals that you spoke
10 with in these four divisions?

11 THE WITNESS: His head of
12 distribution certainly would be.

13 JUDGE: Certainly would be.

14 THE WITNESS: Yes.

15 JUDGE: And who is that by the
16 way?

17 THE WITNESS: I think at the time
18 it was Randy Brown.

19 JUDGE: I heard that name. Now
20 would there be anything to preclude Randy
21 Brown either from Comcast business practices
22 or perhaps maybe just whether it would make

1 sense to do this -- But would he at times go
2 to these people independently and say, "We'd
3 like you to just take another look at this
4 program"?

5 THE WITNESS: Absolutely.

6 JUDGE: He does -- He did that.

7 THE WITNESS: Yes. That's one of
8 his means --

9 JUDGE: His jobs.

10 THE WITNESS: Yes.

11 JUDGE: So before you'd spoke with
12 these individuals -- and I'm not saying in
13 connection with your talk -- to your knowledge
14 do you have information or belief that Mr.
15 Brown had spoken to these individuals before
16 you, again, not in connection with this call
17 but just in doing his job?

18 THE WITNESS: Yes, certainly.

19 Since 2005, I had been working closely with
20 Randy Brown, having him get out there to the
21 field and talk to folks.

22 Now at some point Randy Brown left

1 the organization. And I don't recall if he
2 was there in May 2009 or not. But he
3 certainly was there from 2005, 2006, 2007 time
4 frame.

5 JUDGE: But if he wasn't there at
6 this time frame there would be somebody in his
7 place or taking his place.

8 THE WITNESS: Yes.

9 JUDGE: That would be doing
10 essentially the same thing.

11 THE WITNESS: Yes. The person who
12 replaced him was Patrick Wilson.

13 JUDGE: These names all sound
14 familiar. Okay. Then I'm just going to --
15 That answers my questions. Thank you.

16 MR. CARROLL: Your Honor, the only
17 remaining task I have is to move into evidence
18 Comcast Exhibit 78 which is Ms. Gaiski's
19 direct testimony.

20 JUDGE: Any objection?

21 MR. PHILLIPS: No, Your Honor.

22 JUDGE: It's received in evidence.

1 What number was it again?

2 MR. CARROLL: Exhibit 78, Your
3 Honor.

4 JUDGE: Seventy-eight is received
5 in evidence as Comcast 78.

6 (The document referred to having
7 been previously marked for
8 identification as Comcast Exhibit
9 No. 78, was received in evidence.)
10 Thank you.

11 MR. CARROLL: Your Honor, thank
12 you.

13 Ms. Gaiski, thank you.

14 JUDGE: Are you not tendering your
15 witness for cross examination?

16 MR. CARROLL: No, I am, Your
17 Honor. I'm tendering the witness for cross
18 examination. I was deferring to you.

19 JUDGE: No, I just wanted to know
20 if you were ready to do it.

21 MR. CARROLL: Yes.

22 CROSS EXAMINATION

1 BY MR. PHILLIPS:

2 Q Ms. Gaiski, I'm Will Phillips.

3 A Good morning.

4 Q We met briefly before. And I just
5 have a few questions for you. I'd like to go
6 back to your chart for a second which is
7 Exhibit 588. We did this exercise on Friday
8 with Mr. Bond, but I just want to run you
9 through it very quickly if I may.

10 If you look at this chart, you
11 have the current contract option A and option
12 B. And the option A is the move to D1 and the
13 option B is the move to D0. Correct?

14 A Digital starter, yes.

15 Q Yes. Now if we added Golf Channel
16 to this chart, which of these roads would it
17 have similar distribution to?

18 A The last one, the digital starter.

19 Q Okay. And we look at the price of
20 the Golf Channel under this last row, do you
21 recall the price per sub on the Golf Channel?

22 A It's ■ or ■ cents.

1 Q Approximately [REDACTED] cents is what I
2 think we established with Mr. Bond. And it's
3 about [REDACTED] million subs. Does that sound
4 right?

5 A That's probably right.

6 Q Okay. So the total annual fee
7 would be around give or take a few hundred
8 thousand [REDACTED] million.

9 A [REDACTED] times roughly [REDACTED]. Yes,
10 that's close enough to [REDACTED] million dollars.
11 That's right.

12 Q So that would be the [REDACTED] million
13 which would compare to the [REDACTED] million down
14 here that is under the Golf Channel. Oh, I'm
15 sorry. Compared to the [REDACTED] million under the
16 Tennis Channel. Correct?

17 A That's right.

18 Q And if I multiply the [REDACTED] million
19 out to get the last number on the right hand
20 I would get for [REDACTED] years I guess I would get
21 about [REDACTED] million. Correct?

22 A Yes.

1 Q And if I did the same exercise for
2 Versus, Versus is also down there at the D0
3 level.

4 A Digital starter, yes.

5 Q Yes. And I believe what we heard
6 was that it was around [REDACTED] cents per sub.

7 A That's right. A little bit less
8 than [REDACTED].

9 Q So if we take that same [REDACTED]
10 million subs with my math I get again a little
11 over [REDACTED] million.

12 A A year.

13 Q A year, right. And that would be
14 compared to the [REDACTED] million there for the
15 Tennis Channel.

16 A Yes.

17 Q And if I multiply it out by [REDACTED]
18 that much math is pretty easy for me and we
19 get a little over [REDACTED] million. Right?

20 A Probably yes.

21 Q Okay. And now you recall -- Just
22 to take one more because we did go through

1 this with Mr. Bond. I don't want to spend a
2 lot of time on it. Take Major League Baseball
3 for example. That's around [REDACTED] cents a sub.

4 A [REDACTED]. Something like that,
5 yes.

6 Q And that's [REDACTED] million subs, [REDACTED]
7 million.

8 A Something like that, yes.

9 Q So that would be the D1 number.
10 Correct?

11 A That's right.

12 Q And if I did that math I take it
13 that the comparable number to the [REDACTED] million
14 on the Tennis Channel would be say [REDACTED]
15 million.

16 A Right. A little bit easier math.
17 Right.

18 Q Does that sound right?

19 A Yes.

20 Q All right. So if I did that math
21 out by [REDACTED] years instead of [REDACTED] which I get
22 for the Tennis Channel, I'd end up with like

1 [REDACTED] million.

2 A Hm-hm.

3 Q Okay. Is that a yes?

4 A Yes.

5 Q Okay. Now we heard --

6 JUDGE: It's important. You have
7 to articulate those answers.

8 MR. PHILLIPS: Thank you, Your
9 Honor.

10 BY MR. PHILLIPS:

11 Q We heard some testimony from Mr.
12 Bond that at the local level of systems around
13 the country system owners often decide how
14 broadly to distribute some of the networks
15 that they have and they distribute. Do you
16 agree?

17 A That's right.

18 Q And when they do that they have to
19 take into account the cost of distribution on
20 their local budgets. Correct?

21 A That's right.

22 Q But for some networks, the level

1 of distribution is set at the national level.

2 Right?

3 A Corporate level?

4 Q Yes.

5 A That's right.

6 Q That's set in Comcast headquarters
7 in Philadelphia. Correct?

8 A That's right.

9 Q And, for those national networks,
10 the local levels don't really have a choice
11 about the distribution level. They're being
12 told that by Comcast Corporate. Correct?

13 A That's right.

14 Q Now Golf Channel is one of those
15 kinds of networks, right, where the Comcast
16 headquarters tells them how far to distribute
17 it?

18 A Well, Golf Channel is already
19 distributed.

20 Q Right. But it's mandated from the
21 top. Correct?

22 A We have a contract with Golf

1 Channel with a commitment in it.

2 Q Right. And that commitment as you
3 recall is a penetration of over [REDACTED] percent.
4 Correct?

5 A No, I don't think that's right.

6 Q Do you recall how extensive the
7 penetration of the Golf Channel is?

8 A I don't think it's a penetration.
9 I don't recall that there's a penetration. I
10 recall that it's [REDACTED]
11 [REDACTED].

12 Q Okay. So [REDACTED]
13 [REDACTED]. Correct?

14 A Yes.

15 Q And it's set forth in the contract
16 that has to be distributed that far. Correct?

17 A That's right. We just did a
18 renewal and in the contract it read that.

19 Q Okay. And so the local operators
20 don't have any choice about that level.
21 Correct?

22 A That's right.